THE BOMBAY SECONDARY SCHOOL CERTIFICATE EXAMINATION ACT, 1948.

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BOMBAY ACT No. XLIX OF 1948.[1]

[THE BOMBAY SECONDARY SCHOOL CERTIFICATE EXAMINATION ACT, 1948.]

[*7th October 1948.*]

An Act for the establishment of a Secondary School Certificate Examination Board in the Province of Bombay.

WHEREAS it is expedient to establish a Board for the purpose of holding and conducting an examination at the end of the high school education stage and for prescribing courses of studies for such examination with a view to equipping pupils for employment, for education in the University and for other cultural purposes; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Secondary School Certificate Examination Act, 1948.

(*2*) This section, sections 2 to 33 and section 35 shall come into force at once. The Provincial Government may by notification direct that section 34 shall come into force on such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Secondary School Certificate Examination Board constituted under section 3;

(*b*) "examination" means the Secondary School Certificate Examination;

(*c*) "examiner" shall include a paper-setter;

(*d*) "Headmaster" or "Headmistress" means the head of the teaching staff of a recognised high school, by whatever style designated;

(*e*) "notification" means a notification published in the *Bombay Government Gazette*;

(*f*) "prescribed" means prescribed by regulations made by the Board under this Act;

(*g*) "Province" means the Province of Bombay;

(*h*) "recognized high school" means a high school recognized by the Director of Public Instruction, Bombay Province, or an officer authorized by him in this behalf or a high school registered by any University established by law in the Province;

(*i*) "text book" means any book prescribed or recommended for the examination and includes a guide-book containing annotations on such text book.

Constitution of Board.

3. (*1*) There shall be established as soon as may be after this section comes into force a Board called the Secondary School Certificate Examination Board. The Board shall consist of a Chairman appointed by the Provincial Government and members as specified in sub-section (*2*).

(*2*) The members of the Board shall be as follows :—

(A) Six *ex-officio* members :—

(*a*) the Director of Public Instruction, Bombay Province, or a Deputy Director of Public Instruction designated by the Provincial Government;

(*b*) the Joint Director of Technical Education;

(*c*) the Director of Agriculture;

(*d*) the Inspector of Commercial Schools, Bombay;

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[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 206.

(*e*) one Educational Inspector designated by the Provincial Government;

(*f*) One Educational Inspectress of Girls' Schools designated by the Provincial Government.

(B) Twelve members elected by the Academic Councils of the Universities established by law in the Province from amongst members of such Councils in such number as may be determined by the Provincial Government by rules made in this behalf.

(C) Nominated by the Provincial Government :—

(*a*) twelve members, out of whom not less than five shall be secondary teachers, from amongst Headmasters, Headmistresses and secondary teachers of recognized high schools;

(*b*) one Principal of a secondary training college in the Province;

(*c*) four persons (not being Headmasters, Headmistresses or secondary teachers) who have had experience of matters connected with higher or secondary education:

Provided that a member shall cease to hold office as such member—

(*i*) if he is elected under paragraph (B) and ceases to be the member of the Academic Council;

(*ii*) if he is nominated under clause (*a*) of paragraph (C) and ceases to be either a Headmaster or a Headmistress or a secondary teacher; and

(*iii*) if he is nominated under clause (*b*) of paragraph (C) and ceases to be a Principal.

(*3*) The names of persons who have been elected or nominated to be members of the Board under sub-section (*2*) shall be published by the Board in the *Official Gazette*.

Appointment of Chairman.

4. (*1*) The Provincial Government shall appoint a Chairman of the Board. The Chairman so appointed shall hold office for a period of four years from the date of his appointment:

Provided that, after the expiry of the period of his appointment, he shall be eligible for re-appointment.

(*2*) The pay, allowances and other conditions of service of the Chairman shall be as determined by the Provincial Government.

Disqualifications of members.

5. A person shall be disqualified for being appointed as, and for being, a Chairman or for being elected, or nominated as, and for being a member of the Board or for being appointed as, and for being a member of any Committee under this Act,—

(*i*) if he, directly or indirectly, by himself or his partner,—

(*a*) has or had any share or interest in any text-book published, or

(*b*) has any share or interest in any work done by order of, or in any contract entered into on behalf of, the Board:

Provided that a person who had any share or interest in any text-book referred to in sub-clause (*a*) shall not be deemed to have incurred the disqualification under the said sub-clause if five years have elapsed from the date of the publication of such text-book;

(*ii*) if he is a person against whom an order has been made under sub-section (*1*) of section 23:

Provided that, where the order has been made on the ground that such person appears guilty of negligence, the disqualification shall cease to have effect after the expiry of the period specified in the order.

Explanation.—For the purposes of this section—

(*a*) the publication of a text shall include its republication;

(*b*) a person shall be deemed to have incurred disqualification by reason of his having any share or interest in the business of the publisher of such text-book.

Disqualifications of co-opted member.

6. A person shall be disqualified for being co-opted as a member of the Board under sub-section (*1*) of section 14 or a member of a Committee under sub-section (*2*) of section 22 or for continuing to act after co-option, if he is or becomes subject to any of the disqualifications mentioned in section 5.

Vacancy owing to disqualification.

7. If the Chairman or any member of the Board or Committee during the term for which he has been appointed, elected, nominated or co-opted, as the case may be, becomes subject to any of the disqualifications under section 5 or section 6, as the case may be, his office shall thereupon become vacant.

Vacancy owing to absence.

8. If any member of the Board during the term for which he has been elected nominated or co-opted, absents himself from three consecutive meetings of the Board without the permission of the Board, his office shall also thereupon become vacant.

Vacancy to be published.

9. Any vacant occurring under section 7 or 8 shall be published by the Board in the *Official Gazette*.

Removal from membership.

10. (*1*) The Provincial Government may, on the recommendation of the Board, remove any member of the Board or Committee, if he has been convicted by a court of law of any offence which, in the opinion of the Board, in a serious offence involving moral turpitude or if he has been guilty of scandalous conduct.

(*2*) No recommendation for the removal of any member shall be made by the Board unless the person concerned is given an opportunity to be heard in his defence.

(*3*) The name of any member who has been removed from the Board or Committee under sub-section (*1*) shall be published in the *Official Gazette*.

Incorporation of Board.

11. The Board shall be a body corporate by the name of the Secondary School Certificate Examination Board and shall have perpetual secession and a common seal and may sue and be sued by the corporate name and shall be competent to acquire and hold property both movable and immovable and to lease, sell or otherwise transfer any movable or immovable property which may have been vested in or been acquired by it and to contract and to do all things necessary for the purposes of this Act.

Term of office of members.

12. The members of the Board other than *ex-officio* members shall hold office for a term of three years from the date of the publication of their names under sub-section (*3*) of section 3 and on the expiration of such term, shall be eligible for being re-nominated or re-elected in accordance with the provisions of sub-section (*2*) of section 3 :

Provided that the term of office of the outgoing members shall be deemed to extend to and expire with the date on which the names of their successors elected or nominated, as the case may be, are published under sub-section (*3*) of section 3.

Resignation of member of Board.

13. A member of the Board, other than an *ex-officio* member, may resign his seat at any time by giving notice thereof in writing to the Chairman ; and such member shall be deemed to have vacated his seat as soon as the Chairman has received his resignation.

Power of Board to co-opt members for special purposes.

14. (*1*) The Board may co-opt persons not exceeding three to be extraordinary members for any special purpose.

(*2*) A person so co-opted shall not be deemed to be a member of the Board and shall have no right to vote at any meeting thereof, but he may take part in the discussions of the Board relating to the purpose for which he was co-opted.

Powers and duties of Board.

15. Subject to the provisions of this Act, the powers and duties of the Board shall be as follows, namely—

(*a*) to make regulations for all or any of the matters specified in section 26 ;

(*b*) to make regulations for the purpose of prescribing and recommending any book as a text-book :

Provided that a book in which the Chairman or a member of the Board has, directly or indirectly, by himself or his partner, any share or interest shall not be prescribed or recommended as a text-book ;

(*c*) to make regulations for imposing penalties for acts of misconduct committed by students appearing for the examination ;

(*d*) to appoint examiners and supervisors and to fix their remuneration and to arrange for the conduct of, and for publishing the results of the examination ;

(*e*) to fix, demand and receive such fees and other charges as may be prescribed ;

(*f*) to award certificates to students passing the examination ;

(*g*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by or under this Act ; and

(*h*) to do all such acts and things as may be necessary to carry out the purposes of this Act.

Meetings of Board.

16. The Board shall meet not less than once every three months. The Chairman may at any time, and shall, upon the written request of not less than one-third of the members of the Board other than the *ex-officio* members and for a date not more than twenty-one days after the presentation of such request, call a special meeting of the Board.

Powers and duties of Chairman.

17. (*1*) It shall be the duty of the Chairman to ensure that this Act, the regulations and bye-laws made thereunder are faithfully observed and he shall have all powers necessary for this purpose.

(*2*) In any emergency which, in the opinion of the Chairman, requires that immediate action should be taken, the Chairman shall take such action as he deems necessary and shall thereafter report his action to the Board at its next meeting.

(*3*) The Chairman shall exercise such other powers and perform such other duties as may be prescribed.

Appointment, powers and duties of Secretary.

18. (*1*) The Board shall have a Secretary who shall be appointed by the Provincial Government.

(*2*) The Secretary shall, subject to the control of the Chairman of the Board, be the executive officer of the Board.

(*3*) He shall exercise such powers and perform such duties as may be prescribed.

(*4*) He shall be entitled to be present at the meetings of the Board but he shall not be entitled to vote thereat.

Appointment of other officers and servants.

19. (*1*) The Provincial Government may appoint such other officers and servants as may be required to enable the Board to discharge its functions under this Act.

(*2*) The Chairman, Secretary and the other officers and servants shall be the servants of the Provincial Government and they shall draw their pay and allowances from the Provincial revenues.

Board to pay costs on account of pay, pension, etc., of Chairman, Secretary and other officers and servants.

20. The Board shall pay every year out of its Fund to the Provincial Government such cost as the Provincial Government may determine on account of the pay, pension, leave and other allowances of the Chairman, Secretary and other officers and servants appointed under this Act.

Examiners Committee.

21. (*1*) There shall be a Committee called the Examiners Committee for the purpose of drawing up panels of names of examiners.

(*2*) The Examiners Committee shall consist of—

(*i*) Chairman of the Board—*ex-officio* Chairman;

(*ii*) Six members appointed by the Board in the prescribed manner as specified below :—

(*a*) one from amongst the *ex-officio* members of the Board;

(*b*) two from amongst the elected members of the Board; and

(*c*) three from amongst the nominated members of the Board.

(*3*) The Examiners Committee shall draw up panels of the names of examiners Such panels shall consist of such number as may be prescribed. The panels so drawn up shall be submitted by the Examiners Committee to the Board. The Board shall make the appointments of the examiners from the panels so submitted.

(*4*) If any examiner is unable to act for any cause and a fresh appointment cannot be made in time by the Board, the Chairman shall out of the panels submitted to the Board appoint another examiner to fill the vacancy and shall report such appointment to the Board.

(*5*) The members of the Examiners Committee, other than the Chairman, shall hold office for a term of one year from the date of their appointment.

Appointment of Committees.

22. (*1*) The Board may also appoint such other Committees as it thinks necessary for the efficient discharge of its functions under this Act or the regulations made under this Act.

(*2*) Such Committees may consist of members of the Board and such other persons as the Board may in each case co-opt for any special purpose.

(*3*) The duties and functions of such Committees shall be as may be determined by the Board.

Termination of examiner's appointment for misconduct or negligence.

23. (*1*) If at any time it appears to the Board that a person appointed as an examiner under this Act has been guilty of any misconduct or negligence which renders his appointment as an examiner inexpedient the Board may make an order terminating his appointment and directing that such person shall not be eligible for appointment as an examiner at any time or for any specified period. Before making such order the Board shall observe such procedure as may be prescribed.

(*2*) The name of the person against whom an order has been made under sub-section (*1*) shall not be included in the panels of names submitted under section 21 for such period as may be specified in such order.

(*3*) Any person aggrieved by an order made under sub-section (*1*) may appeal to the Provincial Government within sixty days, from the date of the order. On such appeal being filed, the Provincial Government may, after making such inquiry, as it thinks fit, confirm, modify or reverse the order. The order of the Provincial Government shall be final.

Casual vacancies.

24. All casual vacancies among the members of the Board and the Examiners Committee (other than *ex-officio* members) shall be filled up as soon as it conveniently may be, by election, nomination or appointment, as the case may be; and the person elected, nominated or appointed to a casual vacancy shall hold office so long only as the member in whose place he is elected, nominated or appointed would have held it if the vacancy had not occurred.

Fund.

25. (*1*) The Board shall have its own Fund and the following moneys shall be placed to the credit thereof:—

(*a*) fees and charges levied by the Board;

(*b*) contribution, if any, paid by the Provincial Government; and

(*c*) any money received by or on behalf of the Board.

(*2*) The Fund shall be kept in any scheduled bank as defined in the Reserve Bank of India Act, 1934, or invested in securities authorized by the Indian Trust Act, 1882, at the discretion of the Board.

II of 1934. II of 1882.

Power of Board to make regulations.

26. (*1*) The Board may, from time to time, make regulations for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) subjects and curricula for the examination;

(*b*) marks required for passing in any subject and the examination as a whole and for exemption, credit and distinction in any subject;

(*c*) admission of candidates to the examination and conditions governing such admission;

(*d*) appointment of examiners and their remuneration;

(*e*) qualifications and disqualifications of examiners;

(*f*) arrangements for the conduct of, and for publishing the results of, the examination;

(*g*) fixing of fees and charges in respect of the examination;

(*h*) awarding of certificates to the successful students;

(*i*) the procedure to be followed at the meetings of the Examiners Committee, the number of members required to form a quorum at such meetings and the travelling and other allowances to be drawn by the members of such committee;

(*j*) the procedure to be observed before making an order under section 23;

(*k*) providing for all matters which by this Act are to be or may be provided for by regulations.

Sanction of regulations by Provincial Government.

27. No regulation or alteration or revocation of a regulation made under section 26 shall have effect until the same shall have been sanctioned by the Provincial Government.

Making of first regulations.

28. Notwithstanding anything contained in section 26, the first regulations shall be made by the Provincial Government and they shall continue in force till new regulations are made by the Board under the said section and sanctioned by the Provincial Government under section 27.

First appointment of University representatives.

29. The members referred to in paragraph (B) of sub-section (2) of section 3 may, on the first constitution of the Board, be nominated by the Provincial Government but the members so nominated shall hold office only until they can be replaced by members elected as provided in that paragraph and the members so elected shall hold office so long only as the members replaced would have held office had they not been replaced.

Proceedings not invalidated by reason of vacancies.

30. No act or proceeding of the Board or of the Examiners Committee shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the Board or the Committee.

Powers of Board to make bye-laws.

31. The Board may make bye-laws consistent with this Act and the regulations to provide for all or any of the following matters, namely :—

(*a*) the procedure to be followed at the meetings of the Board and the committees appointed by the Board and the number of members required to form a quorum at such meetings;

(*b*) the travelling and other allowances which may be drawn by members of the Board and the committees appointed by the Board;

(*c*) any other matter solely concerning the Board and such committees not provided for by this Act and the regulations.

Information, returns etc., to be furnished by Board.

32. (*1*) The Board shall furnish to the Provincial Government such reports, returns and statements as may be required by the Provincial Government and such further information relating to any matter connected with the work of the Board as the Provincial Government may require.

(*2*) The Provincial Government may, after considering any such report, return or statement and any information furnished by the Board, give such directions consistent with this Act as may be necessary and the Board shall comply with such directions.

Annual accounts and financial estimates.

33. (*1*) The Board shall prepare the annual accounts and submit them to the Provincial Government for audit.

(*2*) The Board shall prepare before such date as may be prescribed the financial estimates for the ensuing year and forward them to the Provincial Government for its sanction. The Provincial Government may pass such orders with reference thereto as it thinks fit and communicate the same to the Board which shall give effect to such orders.

34-35. [*The amendments made by sections 34 and 35 of this Act have been incorporated in the Bombay University Act, 1928 and the Poona University Act, 1948 respectively.*]